



Lewisham

# Managing unreasonable complainant behaviour policy

October 2024

## Document control

Version number	Date	Purpose/change	Authorisor
Version 1	October 2024	Revision to comply with Ombudsmen complaint-handling codes	Executive Director, Corporate Resources

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## Introduction

1. In most cases, complainants are helpful, polite and patient, and they give us time to do our job. This means that their complaints can be dealt with quickly and efficiently. However, the behaviour of a minority of complainants can make investigating and resolving a complaint difficult. These complainants can also take up a lot of staff time, leaving less time to help others.
2. This policy aims to ensure that those complainants who behave unreasonably are treated fairly and consistently. It also helps staffs understand what is expected of them, what action they can take when faced with unreasonable behaviour, and who is responsible for authorising such action.
3. Each case will be considered on its merits. Staff will take into account the effect of the complainant's behaviour on the Council's resources; the complainant's circumstances, including any special needs and vulnerabilities; and the impact the Council's decision will have on the complainant, the Council, and any relevant third parties.
4. Council staff may also refer to and use this policy in situations where there is no complaint, but a customer's behaviour is affecting our ability to deliver a service.

## Our definitions of unreasonable behaviour

5. The following lists are not exhaustive and we may classify other behaviour as unreasonable, depending upon the circumstances of the case.

### Unreasonably persistent behaviour

6. A complainant's behaviour is unreasonably persistent when they:
  - Continue to contact us to dispute the outcome of a complaint which
    - Has completed the complaints procedure, including implementation of any remedy, or
    - We rejected.
  - Submit as a new complaint, a complaint which we have previously considered and decided, when there have been no significant changes in circumstances to justify a new complaint.

### High frequency or volume of contact

7. This covers situations where a complainant:
  - Makes lengthy and/or frequent phone calls, which interfere with staff members' ability to progress matters
  - Emails multiple staff members, or copies multiple members of staff into emails

- Provides detailed information at short intervals
- Expects immediate responses to correspondence.

## Refusal to co-operate

8. This covers situations where a complainant:
- Refuses to specify the grounds of a complaint, despite offers of help
  - Frequently changes the basis of the complaint
  - Does not provide information requested, or provides false information and/or falsified documents
  - Raises many detailed but unimportant questions, and insists they are all answered in the complaint response
  - Does not co-operate with the complaints investigation process
  - Insists their complaint should be dealt with in a way or by a member of staff not specified in the complaints procedure.
  - Makes unjustified complaints about staff who are trying to deal with the issues.

## Aggressive or abusive behaviour

9. This covers behaviour in person, on the phone, and in writing, and refers to any situation where a complainant:
- Is abusive, threatening, or acts in a manner intended to intimidate
  - Makes derogatory remarks intended to undermine staff
  - Uses language which is racist, sexist, homophobic, or discriminatory in any other way
  - Puts, or threatens to put, information on social media or websites which includes personal information about staff without their consent
  - Makes defamatory statements about staff online.

## How we manage unreasonably persistent complainants

10. All staff are authorised to give informal warnings to individuals who act in an unreasonable way, to give such individuals the opportunity to modify their behaviour. Staff should document any informal warning as this will contribute to the evidence available should discussions about a formal warning become necessary.

## Where there is an immediate risk to staff well-being

11. All staff are authorised to terminate any meeting, interview or phone call in which the behaviour of the complainant is abusive, threatening, or unproductive. Staff should normally give a single warning, in the following format:

*[COMPLAINANT NAME], I will end this meeting/interview/call unless you change your behaviour and stop shouting at/abusing/threatening me.*

12. This may prompt the necessary change in behaviour. If it does not, staff should end the interaction without further warning, simply saying 'I am ending the meeting/interview/call now' and then hanging up or leaving the room. Staff may need to arrange for another staff to escort the complainant from the premises.
13. Staff should then:
  - Write a clear account of the conversation in a dated document which names any other people who were present and can also give an account of what happened.
  - Save this document to the iCasework record and create a 'behaviour warning issued' alert.
  - Send a copy of the document to their line manager.
  - Seek support from colleagues, line manager, and/or other suitable source – see [Supporting you - Health and Wellbeing Hub \(sharepoint.com\)](#)<sup>1</sup>.
14. The line manager should seek advice from the relevant director. It may be appropriate to involve the Police or take legal advice. If not, the line manager should follow up the incident with a written warning using the warning procedure outlined below.

### **Where a single incident or cumulative behaviour meets the threshold of 'unreasonable'**

15. When a member of staff believes that a complainant's behaviour meets the threshold of unreasonable, they will discuss this with their line manager. Together they will put together a list of incident dates, with details of each incident and copies of relevant documents such as emails or meeting notes.
16. The staff member and their line manager will also consider the particular circumstances of the case, such as the complainant's disabilities and vulnerabilities.
17. If, after reviewing this evidence, the line manager has the same concerns, they will refer the case to the division director for a warning.
18. The division director must authorise both the warning, and the decision to take action.
19. The line manager must ensure that a copy of the referral, and the supporting evidence taken into account, are uploaded to iCasework.

### **Warning procedure**

20. The division director, or another member of staff authorised by the division director, will write to the complainant. The letter or email will:

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<sup>1</sup> <https://lewishamcouncil.sharepoint.com/sites/WorkingforLewisham/SitePages/Supporting-you.aspx>

- Explain and give examples of what behaviour was unreasonable and why
  - Set out the consequences if they do not change their behaviour, and
  - Enclose a copy of this policy.
21. Staff sending this email or letter should also send a copy (as bcc if an email) to [singlecontact@lewisham.gov.uk](mailto:singlecontact@lewisham.gov.uk), so the warning can be recorded on the relevant spreadsheet.
  22. The complaint caseworker will make a file note in the iCasework case and place a 'behaviour warning issued' alert on the iCasework record. The caseworker must also assign themselves a system task to review the behaviour warning alert at case closure.
  23. In many cases this warning successfully alerts the complainant and there are no further issues. The complaint caseworker then removes the iCasework alert when closing the complaint and informs [singlecontact@lewisham.gov.uk](mailto:singlecontact@lewisham.gov.uk) that the case is closed without further issues.
  24. In some cases, the unreasonable behaviour continues despite the warning. Staff must then act swiftly to refer the case back to the division director for a decision on how to manage the unreasonable behaviour. Options include:
    - Accepting only written contact from the complainant
    - Limiting the complainant to one contact point in the Council
    - Accepting telephone calls only on a specific day or time of day
    - Deciding to end our investigation of the complaint and advising the complainant in writing that we have done this and why
    - Writing to the complainant to say that in future, we will simply read and file their letters/emails unless they contain information that we think is new.

## Recording and reviewing our decisions

25. The division director will write to the complainant, by letter or email as appropriate. The communication will set out:
  - What we have decided to do, to manage the unreasonable behaviour
  - The reasons we have taken this decision
  - Any special arrangements for future contact
  - When we will review the situation
  - Confirmation that the Council has considered the complainant's rights under human rights and equality act legislation
  - The complainant's right of appeal.
26. If the complainant has an active case on iCasework, the communication should be sent via iCasework. The Corporate Complaints team can advise on this and will in any case need to know about the communication, so they can:
  - Update the central record
  - Update the iCasework alert, which will appear on all future complaints from this complainant until it is removed

- Manage any single point of contact arrangements.
  - Inform relevant service areas and elected members of any restricted contact arrangement.
27. The division director should also ensure that the original caseworker and their line manager are aware of the decision.
28. The division director will review the decision after 6 months, and advise the complainant in writing of the outcome of the review. If there have been no further incidents, the outcome of the review might be to removal all restrictions on contact. But if lifting the restriction prompts a resumption of the previous behaviour, the director may reintroduce restrictions without an additional warning.
29. The Corporate Complaints team will monitor, record and update all cases.

## Appeals

30. The complainant may appeal to the relevant Executive Director if they are unhappy with the decision to restrict their contact with the Council. The complainant must appeal in writing and within 20 working days of the decision.
31. The Executive Director will consider the appeal and write to the complainant within 10 working days, setting out:
- The outcome of the appeal
  - The reasons for this decision
  - The complainant's right to now approach the Local Government and Social Care Ombudsman about this decision
  - The Local Government and Social Care Ombudsman's contact details.
32. The Executive Director will send a copy of this communication to:
- [singlecontact@lewisham.gov.uk](mailto:singlecontact@lewisham.gov.uk) so the Corporate Complaints team can update the central records and amend the iCasework alert if required.
  - Staff previously involved in the case.

## Further contact

33. The Council will treat all **new** complaints from the complainant on their merits, and in line with the relevant complaints policy.